

FISCAL IMPACT OF PROPOSED LEGISLATION

Measure: SB 326 - MRA

82nd Oregon Legislative Assembly – 2023 Regular Session

Legislative Fiscal Office

Only Impacts on Original or Engrossed Versions are Considered Official

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Measure Description:

Requires owner of real property where site of unlawful manufacture of marijuana or unlawful production of marijuana is located to clean up waste from site upon receipt of notification from law enforcement agency.

Government Unit(s) Affected:

Counties, Department of Corrections, District Attorneys, Oregon Youth Authority, Water Resources Department, Criminal Justice Commission, Department of Justice, Cities, Judicial Department, Public Defense Services Commission, Department of Environmental Quality

Summary of Fiscal Impact:

Costs related to the measure may require budgetary action - See analysis.

Summary of Expenditure Impact:

| | 2023-25 Biennium | 2025-27 Biennium |
|----------------------------------|-------------------------|-------------------------|
| Department of Corrections | | |
| General Fund | | |
| Prison Costs | \$23,772 | \$58,918 |
| Community Corrections | \$123,381 | \$497,102 |
| Total General Fund | \$147,153 | \$556,020 |
| Total Fiscal Impact | \$147,153 | \$556,020 |

The measure is anticipated to have a minimal fiscal impact on the Department of Corrections and does not require a referral to the Joint Committee on Ways and Means. While this measure does not require an appropriation at this time, the cumulative effect of measures with a prison population impact may require further analysis and adjustment to state agency appropriations. The table above and narrative below include the potential costs to state agencies to provide more context of the measure’s fiscal impact.

Analysis:

The measure requires that the property owners are responsible for the cleanup of any the waste from illegal cannabis operations on a site within 30 days of receiving written notification from a law enforcement agency. If the owner fails to complete cleanup within the allotted time, cities and counties may pursue civil proceedings for public nuisance abatement and file a claim of lien on real property at the site where the illegal operation occurred. The measure also authorizes the Water Resources Commission to issue a civil penalty of not more than \$2,000 per occurrence to persons who attempt to use, or construct means of using ground water on illegal cannabis operation sites. These civil penalties will be credited to the General Fund.

Additionally, the measure creates Class B felonies for persons that are not otherwise licensed under cannabis statutes if there is possession of more than 32 times the legal amounts of cannabis or cannabinoid products regardless of age; for manufacturing of cannabis if more than 100 plants; or if either of these violations is accompanied by specified reckless unlawful conduct or knowing unlawful conduct related to working or environment conditions.

The measure prohibits the use, storage, or diversion of water, or the use of groundwater, at any location where cannabis is grown unless the location is licensed by the Oregon Liquor and Cannabis Commission (OLCC) and Oregon Health Authority (OHA). The measure prohibits OLCC from issuing a marijuana production license under ORS 475C.065 and OHA from issuing a marijuana grow site registration under ORS 475C.792 unless the applicant submits a statement accurately identifying the legal address and owner of the premises to be licensed and specified requirements.

The measure requires OLCC and OHA to verify legal address and ownership of a proposed premises for licensure of production or a grow site. It also prohibits OLCC and OHA from issuing licenses to an applicant who does not own the property on which the licensed activity will take place, unless the applicant can demonstrate consent from the property owner for cannabis-related activity. These provisions are operative January 1, 2024, however, OLCC and OHA may act before the operative date as deemed necessary.

The measure declares an emergency and takes effect upon passage with provisions applying only to conduct occurring on or after the effective date of the measure.

Department of Corrections

The Department of Corrections (DOC) anticipates the fiscal impact of the measure to be \$147,153 General Fund for the 2023-25 biennium and \$556,020 General Fund for the 2025-27 biennium. According to sentencing data on marijuana convictions from 2022 provided by the Criminal Justice Commission (CJC), CJC anticipates the measure will result in an additional 22 convictions per year, or 44 additional convictions in the 2023-25 biennium. CJC estimates that 14% of these new convictions will be sentenced to a DOC facility, with an average sentence length of 15.7 months, and 86% of the new convictions sentenced to probation, with an average sentence length of 36 months.

DOC assumes a three-month lag between the measure's effective date and the date first offenders may be received. Included in the cost estimates in the table above are funds that would be distributed to the Community Corrections departments of counties for the costs of probation, post-prison supervision, and local control. The anticipated population increase from this measure would not require increased staffing, so the estimated marginal cost per day is \$24.30 per offender at a DOC facility and \$13.83 per offender on probation.

HB 3194 (2013) requires a 10-year estimate of the fiscal impact for measures with an effect on crimes and sentencing. Using the conviction rate assumptions listed above, DOC anticipates the costs for the 2027-29 biennium to be \$715,871 General Fund, \$734,592 General Fund in 2029-31, and \$736,019 General Fund in 2031-33. These cost estimates could vary depending on the actual number of criminal cases, convictions, and length of sentences issued.

Counties report the fiscal impact of this measure is minimal. As noted above, DOC distributes General Fund to community corrections for a portion of costs associated with probation, post-prison supervision, and local control. If this measure becomes law, the distribution from DOC for the 2023-25 biennium will be \$123,381 and \$497,102 for the 2025-27 biennium.

Public Defense Services Commission (PDSC)

The fiscal impact on PDSC is indeterminate. The new felony crimes created by the measure, even though similar to existing crimes charged under current law, and the change in crime-seriousness categories, are likely to increase public defense cost for financially eligible defendants at pre-trial hearings, circuit court trials, and sentencing hearings. There may also be an increase in the number of appellate cases, as some convictions may be challenged. PDSC is unable to estimate the impact of the measure at this time, but the measure is anticipated to increase costs once actual caseloads are identified.

Other Impacted Agencies

There is a minimal fiscal impact for the Department of Justice, Oregon Judicial Department, Oregon Liquor and Cannabis Commission, Oregon Healthy Authority, Water Resources Department, and counties.

There is no fiscal impact for the Oregon Youth Authority, Department of Environmental Quality, Criminal Justice Commission, or District Attorneys.

The Legislative Fiscal Office (LFO) requested, but has not received, fiscal impact information from cities. In absence of this information, the fiscal impact to cities is indeterminate. If fiscal impact information is provided by cities, LFO will issue a revised fiscal impact statement.